

MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK

**SPECIAL SESSION
September 30, 2005 and
October 3, 2005**

The Board of Supervisors of Maricopa County, Arizona convened in Special Session at 2:00 P.M., September 30, 2005, in the Sullivan Conference Room, 301 W. Jefferson Phoenix, Arizona, with the following members present: Max W. Wilson, Chairman, District 4, Don Stapley, Vice Chairman, District 2, Andrew Kunasek, District 3; Fulton Brock, District 1. Absent: Mary Rose Wilcox, District 5. Also present: Fran McCarroll, Clerk of the Board, Shirley Million, Administrative Coordinator, David Smith, County Manager and Paul Golab, Deputy County Attorney. Votes of the Members will be recorded as follows: aye-nay-absent-abstain.

PUBLIC HEARING – LIQUOR LICENSE APPLICATION

Chairman Wilson called for a public hearing on liquor license applications. No protests having been received and no speakers coming forth at the Chairman's call, motion was made by Supervisor Kunasek and seconded by Supervisor Stapley, to recommend approval of the following liquor license application:

Application filed by Leonard A. Sowinski for a Special Event Liquor License: (F23164) (SELL695)

Business Name:	Our Lady of Lourdes Parish – Men's Club
Location:	14818 W. Deer Valley Drive, Sun City West
Date/Time:	October 4, 2005; 5:00 pm to 9:00 pm

Motion carried by majority vote (3-1-1) with Supervisors Stapley, Kunasek and Wilson voting "aye" and Supervisor Brock voting "nay." Supervisor Wilcox was absent from the meeting.

TRANSFER EXPENDITURE AUTHORITY FOR DUST CONTROL VACANT LOT ACTIVITY

Item: Approve the following items regarding the Dust Control Vacant Lot Activity:

- o Pursuant to A.R.S. §42-17106(b), approve a transfer of expenditure authority from General Government (470) General Fund (100) General Government Contingency (4711) to Air Quality (850) General Fund (100) Earthmoving and Dust Compliance (8540) in the amount of \$542,632. This action will fund nine full-time employees (FTEs), associated supplies and nine vehicles. This action requires an expenditure appropriation adjustment decreasing the FY 2005-06 General Government (470) General Fund Contingency (4711) expenditure budget by \$542,632 and increasing the FY 2005-06 Air Quality (850) General Fund (100) expenditure budget by \$542,632.
- o Approve one FTE, associated supplies, and one vehicle to be allocated directly to General Government (470) Waste Management Fund (210) line item Illegal Dumping Program (4757). Approval of this is for the Dust Control Vacant Lot Activity for areas of Unincorporated Maricopa County. This amount is not-to-exceed \$70,981 for FY 2005-06.
- o Approve the authorization to expand the department of Air Quality's Vehicle Fleet with the purchase of ten vehicles at a cost of \$197,500. The composition is ten trucks, five compact extended cab four wheel drive pickups with tool boxes and five compact extended cab two wheel drive pickups with tool boxes for the Department of Air Quality. These vehicles will be used by Dust Control Vacant Lot inspectors.

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Approval of these actions will allow the increase in budgeted expenditure authority to accommodate the required Environmental Protection Agency and State Implementation Plan previously approved by the Board in agenda item C850500500. These adjustments will result in a net impact of zero to the county budget. (C8506008000) (ADM3426) (ADM2341)(ADM3104)

Clerk of the Board Fran McCarroll announced a correction to this item received in an email message from the department, as follows:

“Approve the addition to the fleet for the Department of Air Quality with the purchase of ten (10) vehicles at a cost of \$395,000. The composition is a total of ten (10) trucks, five (5) compact extended cab four wheel drive pick-ups with tool boxes, and five (5) compact extended cab two wheel drive pick-ups with tool boxes. These vehicles will be used by Dust control Vacant Lot (DCVL) Inspectors.”

Discussion ensued regarding the use and cost of the ten vehicles. Brian Hushek clarified this, saying that the correct cost of the ten vehicles would be \$197,500, and not \$395,000, as per the email. He said that the \$542,632 is for vehicles, ten new full-time employees and associated supplies included in the expenditure.

Mr. Smith explained that the EPA has been “pushing” to get this matter in place and this is the last piece needed to complete it. He added that he believed there is “a partial revenue source for it” but it basically will be a General Fund item and will service the entire County.

Motion was made by Supervisor Stapley, seconded by Supervisor Brock, and unanimously carried (4-0-1) to approve this item for Dust Control Vacant Lot Activity with the amount as clarified by Mr. Hushek.

CONTRACT WITH MD HOME HEALTH AND STAFFING FOR SKILLED HOME HEALTH CARE SERVICES

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to retroactively approve a new fee-for-service contract with MD Home Health and Staffing for the provision of skilled home health care services. The not-to-exceed pool amount for all skilled home health care contracts is \$12,448,000 (agenda item C6003464100). The contract term is June 1, 2005, through May 31, 2007. The contract may be extended for a total term, up to five years, and may be terminated with 90 days written notice by either party, or a 10-day notice for lack of funds. This contract will be assigned to the Maricopa County Special Health Care District prior to September 30, 2005. (C6006009100)

AMENDMENT TO EMPLOYMENT CONTRACT FOR RUN OUT OPERATIONS

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to approve an amendment to the employment contract form used by Maricopa Managed Care Systems Run Out Operations that includes changes to the leave balance calculation and termination conditions. The changes are listed below: (ADM2100)

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- a. The employee agrees to perform faithfully the duties of his/her position in accordance with the duties and performance standards stated on the position description that is attached to each contract and incorporated as part of the contract.
- b. The employee shall not accrue paid leave of any kind, but may receive a leave balance to be used for vacation, sick or other personal reasons. The employee's up-front leave balance, if granted, shall be calculated by crediting employee four hours leave per pay period for the expected duration of employee's contract (October 1, 2005, through the contract termination as determined by the termination provisions of this contract). Any leave balance remaining at the end of each fiscal year shall be forfeited and shall not be carried over to the new fiscal year. Any balance remaining upon termination of the contract shall be forfeited and shall not be paid out to the employee.
- c. The contract shall remain in effect until terminated by either party by written notice or until otherwise amended, or at the end of the fiscal year, whichever occurs first. This contract may be terminated for any reason, including but not limited to lack of work. This contract may be renewed by written agreement at the beginning of each new fiscal year subject to available funding and approval of the Maricopa County Board of Supervisors. See Paragraphs D and E below for additional clarification.
- d. Excluding the circumstances described in Paragraph E below, Maricopa County may terminate this contract with two weeks notice to the employee. In this situation, the employee shall be eligible for the services of Maricopa County's Workforce Management Center as provided in HR2403, the County's Reduction-In-Force policy. See Item D for additional clarification. Maricopa County may immediately terminate this contract and all provisions stated herein, in the event that the employee is terminated for performance issues or any other conduct warranting disciplinary action ("disciplinary termination"). In the event of a disciplinary termination, the provisions of Paragraph D shall not apply.

The Board of Supervisors approved funding for these contract positions and career center costs on September 21, 2005 (C6006010800). These actions will have a countywide net impact of zero. (C6006011000)

EXECUTIVE SESSION CALLED

Pursuant to A.R.S. §38-431.03, et.al., motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to recess into executive session, in the Tom Sullivan Conference Room, 301 West Jefferson, for the purpose of reviewing matters listed below pursuant to the listed statutory references.

CONTRACTS SUBJECT TO NEGOTIATION – ARS §38-431.03(A)(4)

E-1. MMCS and AmeriHealth Mercy Health Plan

Martin Demos, Deputy County Attorney
Mike Schaiberger, Chief Operating Officer
Phyllis Biedess, Chief Executive Officer
Richard Kline, Run-Out Administrator

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CONTRACTS SUBJECT TO NEGOTIATION; SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION – ARS §38-431.03(A)(4)

E-2. MedPro Reimbursement

Martin Demos, Deputy County Attorney
Mike Schaiberger, Chief Operating Officer
Phyllis Biedess, Chief Executive Officer
Susan Nicholas, Compliance Officer
Linda Polan, Chief Financial Officer

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION – ARS §38-431.03(A)(3) and (A)(4)

E-3. AHCCCS Reimbursements; Maricopa Managed Care Systems; MIHS

Martin Demos, Deputy County Attorney
Mike Schaiberger, Chief Operating Officer
Phyllis Biedess, Chief Executive Officer
Susan Nicholas, Compliance Officer

RECORDS OR INFORMATION EXEMPT BY LAW FROM PUBLIC INSPECTION; LEGAL ADVICE; SETTLEMENT DISCUSSIONS– ARS §38-431.03(A)(2),(A)(3) AND (A)(4)

E-4. Maricopa Managed Care Systems Provider Appointments and Reappointments RE: Felipe A. Cecena M.D.

Martin Demos, Deputy County Attorney
Mike Schaiberger, Chief Operating Officer
Phyllis Biedess, Chief Executive Officer
Tim Casey, Outside Counsel
Susan Nicholas, Compliance Officer
Anne Longo, Assistant Chief Counsel

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; CONTRACTS SUBJECT TO NEGOTIATION – ARS §38-431.03(A)(3) and (A)(4)

E-5. OAO-MIHS Health Claims Processing Case No. CV04-1876PHX FJM

David Tierney, Outside Counsel
Christopher Keller, Chief County Counsel

CONTRACTS SUBJECT TO NEGOTIATIONS; PURCHASE, SALE OR LEASE OF REAL PROPERTY– ARS §38-431.03(A)(4) AND (A)(7)

E-6. ASU Sundome

William Scalzo, Assistant County Manager, Community Services
Dennis Lindsey, Real Estate Manager
Kevin Costello, Deputy County Attorney
William Riske, Deputy County Attorney
Wes Baysinger, Director, Materials Management

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Karen Stewart, Management Analyst
Julie Schweigert, Stadium District Assistant Director

LEGAL ADVICE; CONTRACTS SUBJECT TO NEGOTIATION – ARS §38-431.03(A)(3) and (A)(4)

E-7. Legal advice and contract negotiations regarding the health care transition assistance package intergovernmental agreement

Christopher Keller, Chief County Counsel
Sandi Wilson, Deputy County Manager
Shawn Nau, Director Health Care Mandates

OPEN SESSION – RECONVENED

Chairman Wilson reconvened open session at 4:40 p.m. All members listed above remained in attendance.

DETERMINATION OR SETTLEMENT AGREEMENT REGARDING FELIPE A. CECENA, M.D.

Item: Issue final determination regarding the recommendations of the Quality Management Committee of Maricopa Managed Care Systems and the ad hoc hearing committee regarding Felipe A. Cecena, M.D. as discussed in Executive Session on September 30, 2005, or consider action on possible settlement agreement as discussed in Executive Session on September 30, 2005. (ADM409) (C6006012M00)

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to approve the settlement agreement for Dr. Cecena as discussed in Executive Session.

AMENDMENT WITH AMERIHEALTH MERCY HEALTH PLAN FOR REPORTING

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to authorize the letter agreement dated September 30, 2005, between Maricopa Managed Care Systems and AmeriHealth Mercy Health Plan amending existing Contract No. C6005001100 with AmeriHealth Mercy Health Plan regarding third party claims processing services; and to authorize Phyllis Biedess, CEO Maricopa Managed Care Systems, to execute the letter agreement on behalf of Maricopa Managed Care Systems. (C6005001103)

REIMBURSEMENT AGREEMENT WITH MEDPRO FOR OVERPAYMENTS

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to approve the reimbursement agreement between Maricopa County and MedPro for overpayments made for services provided by MedPro between November 1, 2001 and February 29, 2004, and payments received between May 5, 2004 and August 31, 2005. (ADM2209) (C6006013100)

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**AGREEMENT WITH THE ARIZONA BOARD OF REGENTS FOR ASU SUNDOME CENTER
CONTINUED**

Item: Approve the following items regarding the Sundome Center for the Performing Arts:

- o Pursuant to A.R.S. §42-17106(B), approve an agreement with the Arizona Board of Regents, for and on behalf of Arizona State University, for the acquisition of the Sundome Center for the Performing Arts and the adjacent parking lot for \$10 plus all other necessary expenditures to complete the acquisition. Authorize the Chairman to execute all necessary documents approved by County Counsel to complete the acquisition.
- o Approve the transfer, not-to-exceed \$60,000, from Appropriated Fund Balance (480) General Fund (100) Contingency (4811) to a new line item in Appropriated Fund Balance (480), Infrastructure/CIP (4813), entitled "Sundome Operations" in order to complete the transaction and for miscellaneous facility operation costs. It is planned that the General Fund will be reimbursed for all incurred miscellaneous operating expenses with funding from the proposed concession agreement.
- o Authorize the use of county contract vendors/contractors to operate and maintain the Sundome facility until the proposed concession agreement is approved and the concessionaire is operational. (C0606024100) (ADM811-009)

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to continue this matter, date uncertain.

**CONTRACT WITH NEDERLANDER DOWNTOWN, INC. FOR MARICOPA COUNTY EVENTS CENTER
CONTINUED**

Item: Approve award of Contract 05050-RFP, Facilities and Booking Management of the Maricopa County Events Center, with Nederlander Downtown, Inc. for the operation and management of the Maricopa County Events Center (a.k.a. Sundome Center). The base term of the contract is ten years with three five-year options to extend for a total of 25 years. This is a revenue contract and it is anticipated that no general funds will be utilized to support this facility during the contract term. Authorize the establishment of a new special revenue fund within the Parks and Recreation budget for the operation and maintenance of the Maricopa County Events Center. (ADM3305)

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to continue this matter, date uncertain.

SETTLEMENT AGREEMENT WITH OAO

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) approve the proposed Settlement Agreement with OAO regarding Case No. CV04-1876PHX FJM. This item was discussed in Executive Session on September 6, 2005 and September 30, 2005. (ADM409)

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MEETING RECESSED

The Chairman recessed the meeting to reconvene in the Tom Sullivan Conference Room at 10:30 a.m. on Monday, October 3, 2005, or immediately following the already posted 9:00 a.m. Informal Meeting to consider further discussion on the following item in Executive Session:

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION – ARS §38-431.03(A)(3) and (A)(4)

AHCCCS Reimbursements; Maricopa Managed Care Systems; MIHS

Martin Demos, Deputy County Attorney
Mike Schaiberger, Chief Operating Officer
Phyllis Biedess, Chief Executive Officer
Susan Nicholas, Compliance Officer
Donald W. Bivens, Outside Counsel
Michael Ross, Attorney, Outside Counsel
Kym Nichols, Paralegal, Outside Counsel
Shawn Nau, Director, Health Care Mandates

MEETING RECONVENED – OCTOBER 30, 2005

The Board of Supervisors of Maricopa County, Arizona reconvened in Special Session at 10:30 a.m., October 3, 2005 in the Tom Sullivan Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Max W. Wilson, Chairman, District 4; Fulton Brock, District 1; Andrew Kunasek, District 3, and Mary Rose Wilcox, District 5. Absent: Don Stapley, Vice Chairman, District 2. Also present: Fran McCarroll, Clerk of the Board; Shirley Million, Administrative Coordinator; David Smith, County Manager; and Paul Golab, Deputy County Attorney, Anne Longo, Assistant Chief Counsel.

EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.03, et.al., motion was made by Supervisor Kunasek, seconded by Supervisor Wilcox, and unanimously carried (4-0-1) to recess into executive session, in the Tom Sullivan Conference Room, 301 West Jefferson, for the purpose of reviewing matters listed below pursuant to the listed statutory references.

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION – ARS §38-431.03(A)(3) and (A)(4)

AHCCCS Reimbursements; Maricopa Managed Care Systems; MIHS

Martin Demos, Deputy County Attorney
Mike Schaiberger, Chief Operating Officer
Phyllis Biedess, Chief Executive Officer
Susan Nicholas, Compliance Officer
Donald W. Bivens, Outside Counsel
Michael Ross, Attorney, Outside Counsel
Kym Nichols, Paralegal, Outside Counsel
Shawn Nau, Director, Health Care Mandates

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MEETING ADJOURNED

After discussion on the above matter, and there being no further business to come before the Board, the meeting adjourned.

ATTEST:

Max W. Wilson, Chairman of the Board

Fran McCarroll, Clerk of the Board